THE HON'BLE SRI JUSTICE
GODA RAGHURAM
And
THE HON'BLE SRI JUSTICE
S. ANANDA REDDY

W.P.No. 2707 of 2005

Dated: 22-06-2007

Between:

C. Surendranath Reddy

…Petitioner

And

The State of Andhra Pradesh, rep., by its
Principal Secretary to Government
(Law Department), Secretariat, Saifabad,
Hyderabad and two others.

…Respondents

THE HON'BLE SRI JUSTICE
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Oral Order: (Per: The Hon'ble Sri justice Goda Raghuram)

The petitioner a Junior Assistant employed as such in the Court of learned II-Additional Junior Civil Judge, Tirupati seeks a declaration that Note-2 in respect of

Serial No.3 of the Annexure to the Andhra Pradesh Judicial Ministerial Service Rules, 2003 issued in G.O.Ms.No. 129 Law (L.A. & J-Homes-Courts-D) dated 12-11-2003 (for short 'the 2003 Rules') is unconstitutional and for a consequential direction to the third respondent to grant promotion to him as Senior Assistant.

The petitioner is a graduate and on sponsorship by the employment exchange was initially appointed as Examiner in 1981 in the Andhra Pradesh Judicial Ministerial Services. After an early ouster from service for want of vacancy, he was reappointed as Lower Division Clerk/Junior Assistant in 1985 and has been working ever since as such. The erstwhile Andhra Pradesh Judicial Ministerial Service Rules, 1964 issued in G.O.Ms.No. 206 Home (Courts-A) Department dated 17-02-1964 (for short '1964 Rules') have been repealed and substituted by the 2003 Rules.

Rule 5 of 2003 Rules sets out the Constitution of the service. Category-3 therein enumerates the post of 'Senior Assistant' formerly designated as 'Upper Division Clerk' 'Head Clerk' etc.,

Rule 8 of the 2003 Rules enumerates the 'qualifications' that are required to be possessed for the several categories of posts in the Judicial Ministerial Service with reference to an Annexure. The annexure insofar as the post of 'Senior Assistant' is concerned stipulates that appointment to this post shall be 'by

promotion' and that the essential qualifications are a pass in Civil Judicial Test Parts-I and II; Criminal Judicial Test and the Account Test for Subordinate Officers Part-I. Note-2 enjoins that for promotion to the posts in categories 1 to 3 (including the post of Senior Assistant) preference shall be given to the member who holds a degree in law of any university in India besides being otherwise qualified and suitable for appointment.

No such preference for graduates in law was required under 1964 Rules. This requirement was introduced only by 2003 Rules.

According to the petitioner, though he is otherwise qualified and eligible for appointment to the post of Senior Assistant having acquired all the other qualifications, having regard to the preference accorded to persons having a degree in law under Note-2 in the Annexure of the 2003 Rules, he suffers a disability or at any rate a disadvantage in the matter of obtaining promotion to the post of Senior Assistant. According to the petitioner (paragraph No.4 of the affidavit) in the Chittoor district unit, Junior Assistants far junior to him for several years have all the law qualification and on account of the rigor of Note-2 supra they have acquired a preferential right for appointment by promotion to the post of Senior Assistant to the disadvantage of the petitioner. This is the grievance and the genesis for the writ petition.

The petitioner contends that the prescription of a

preference for a qualification in law for promotion to the post of Senior Assistant is irrational and arbitrary; that since there was no such requirement under the 1964 Rules, the 2003 Rules provides a preferential promotional avenue for law graduates i.e., persons who have acquired law by accident or chance; that the current incumbents do not have a reasonable opportunity for acquiring a law degree as part time law courses are not permitted by the Bar Council of India and full time law courses cannot be pursued by regular employees nor would the relevant and competent authority grant permission for a sabbatical for pursuing a law course; and that as all Junior Assistants form one class marking out a distinction between Junior Assistants who have a qualification in law and those who have not such a qualification amounts to invidious discrimination.

None of the contentions above merit acceptance by this Court. It is not the case of the petitioner either in the pleadings or at the oral arguments that a qualification in law is inconsistent with or wholly irrelevant to the functional requirements of a Senior Assistant in the judicial service. In the absence of any such assertion and establishment of such an assertion, the judgment and consequent policy of the rule making authority that a qualification in law is relevant to the performance of the functions of a Senior Assistant in the Andhra Pradesh Judicial Ministerial Service cannot be interfered with. It is

also a well settled principle that even from a facially homogenous class classification cannot be made on the ground of educational qualifications, including for the purpose of further career opportunities. This principle is too well settled to require or justify an idle parade of familiar scholarship.

Note-2 of the Annexure to the 2003 Rules does not totally debar Junior Assistants not having law qualification for promotion to the post of Senior Assistant. It only carves out a preference for those having a law qualification. The petitioner cannot legitimately cavil at a statutory rule, which carves out a preference for a qualification which is legitimately found relevant for promotion in the Andhra Pradesh Judicial Ministerial Service. The fact that the petitioner's chances are dampened in the matter of promotion to the post of Senior Assistant cannot be a ground for invalidating a statutory rule. Public services are primarily meant to serve the interest of the public. The benefits to the incumbent of a public service are incidental and collateral to the primary purposes of public services.

On the aforesaid analysis, there are no merits. The writ petition is devoid of merits and is accordingly dismissed, but without costs.

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GODA RAGHURAM, J

S. ANANDA REDDY, J

Dated: 22-06-2007
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